

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

AMERICAN ASSOCIATION OF UNIVERSITY
PROFESSORS,

and

AMERICAN FEDERATION OF TEACHERS,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF JUSTICE, *et*
al.,

Defendants.

Case No. 1:25-cv-02429-MKV

**PLAINTIFFS' NOTICE OF
SUPPLEMENTAL AUTHORITY**

Plaintiffs hereby provide notice to the Court of the following supplemental authority relevant to plaintiffs' pending Motion for Preliminary Injunction (ECF No. 24). These decisions were issued after plaintiffs filed their Reply Brief in support of that motion on May 8, 2025. Each decision supports plaintiffs' arguments in support of preliminary injunctive relief in this case and rejects arguments materially indistinguishable from arguments raised by Defendants:

1. ***Cnty. Legal Servs. in E. Palo Alto v. United States Dep't of Health & Hum. Servs.***, __ F.4th ___, Case No. 25-2808, Dkt Entry 17.1, Order (9th Cir. May 14, 2025), attached hereto as Exhibit A (also available at 2025 WL 1393876).
 - a. Pages 4-10 support plaintiffs' argument that the Tucker Act does not preclude jurisdiction here.
 - b. Pages 10-16 support plaintiffs' argument that defendants' actions are not committed to agency discretion by law, for purposes of the APA.

2. ***Commonwealth of Massachusetts, et al. v. Robert F. Kennedy, Jr., et al.***, Case No. 25-10814-WGY, Doc. No. 105, Memorandum and Order on Subject Matter Jurisdiction (D. Mass. May 12, 2025), attached hereto as Exhibit B (also available at 2025 WL 1371785).
 - a. Pages 8-23 support plaintiffs' argument that the Tucker Act does not preclude jurisdiction here.
 - b. Pages 25-26 support plaintiffs' argument that defendants' actions are not committed to agency discretion by law, for purposes of the APA.
3. ***Am. Bar Ass'n. v. U.S. Dep't of Justice***, Case No. 25-cv-1263 (CRC), Doc. No. 28, Memorandum and Opinion granting motion for preliminary injunction (D.D.C. May 14, 2025), attached hereto as Exhibit C.
 - a. Pages 8-13 support plaintiffs' argument that the Tucker Act does not preclude jurisdiction here.
 - b. Pages 13-15 support plaintiffs' argument that they are likely to succeed on the merits of their First Amendment claims.
 - c. Pages 16-17 support plaintiffs' argument that they will suffer irreparable harm without preliminary injunctive relief.
 - d. Pages 17-18 support plaintiffs' argument that the balance of equities and public interest support preliminary injunctive relief.
4. ***State of Colorado, et al. v. U.S. Dep't of Health & Human Servs., et al.***, Case No. 1:25-cv-00121-MSM-LDA. Doc. No. 84, Memorandum and Order granting motion for a preliminary injunction (D.R.I. May 16, 2025), attached hereto as Exhibit D.
 - a. Pages 15-23 support plaintiffs' argument that the Tucker Act does not preclude jurisdiction here.
 - b. Pages 27-30 support plaintiffs' argument that defendants' actions are not committed to agency discretion by law, for purposes of the APA.
 - c. Pages 30-43 support plaintiffs' argument that they are likely to succeed on the merits of their APA claims.

- d. Pages 44-47 support plaintiffs' argument that they are likely to succeed on the merits of their separation of powers / ultra vires claims.
 - e. Pages 47-55 support plaintiffs' argument that they will suffer irreparable harm without preliminary injunctive relief.
 - f. Pages 56-57 support plaintiffs' argument that the balance of equities and public interest support preliminary injunctive relief.
 - g. Pages 57-58 support plaintiffs' argument that no bond should be required here.
5. ***The Sustainability Institute, et al. v. Donald J. Trump, et al.***, Case No. 2:25-cv-2152-RMG, Doc. No. 157, Order entering judgment and granting preliminary injunction (D.S.C. May 20, 2025), attached hereto as Exhibit E.
- a. Pages 7-8 support plaintiffs' argument that they are likely to succeed on the merits of their APA claims.
 - b. Pages 10-11 support plaintiffs' argument that the Court has jurisdiction over their separation of powers / ultra vires claims.
 - c. Pages 14-15 support plaintiffs' argument that they are likely to succeed on the merits of their separation of powers / ultra vires claims.
 - d. Pages 15-17 support plaintiffs' argument that they will suffer irreparable harm without preliminary injunctive relief.
 - e. Pages 17-19 support plaintiffs' argument that the balance of equities and public interest support preliminary injunctive relief.
 - f. Pages 20-22 support plaintiffs' argument that no bond should be required here.
6. ***Southern Education Foundation v. U.S. Dep't of Education, et al.***, Case No. 25-1079 (PLF), Doc. 28, Opinion granting motion for preliminary injunction (D.D.C. May 21, 2025), attached hereto as Exhibit F.
- a. Pages 10-21 support plaintiffs' argument that the Tucker Act does not preclude jurisdiction here.

- b. Pages 30-34 support plaintiffs' argument that they are likely to succeed on the merits of their APA claims.
- c. Pages 34-36 support plaintiffs' argument that the balance of equities and public interest support preliminary injunctive relief.
- d. Pages 36-37 support plaintiffs' argument that no bond should be required.

Dated: May 23, 2025

Respectfully submitted,

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**Pro hac vice* application granted

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